IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.1102 OF 2005
IN
NOTICE OF MOTION NO.3016 OF 2005
IN
SUIT NO.3310 OF 2002

Smt.Shamika Milind Loke .. Appellant

v/s.

Shri Sachin Dattatraya More .. Respondent

Mr.R.D.Dave i/by M/s.N.N.Vaishnava & Co. for the appellant.

Mr.J.S.Kini for the respondent.

CORAM : R.M.LODHA AND
D.G.KARNIK, JJ.

DATED : 13th December, 2005

P.C.

Heard.

2. No case for interference is made out. As a matter of fact, prior to the notice of motion NO.3016 of 2005 for setting aside the order dated 26.8.2004, the appellant took out notice of motion No.3369 of 2004. The said notice of motion was withdrawn. The order dated 29.9.2005 whereby the present appellant was permitted to withdraw the notice of motion No.3369 of 2004 does not show that any liberty was granted to the appellant to take out fresh notice of motion.

3. However, the appellant has misrepresented in ground (b) of the memorandum of appeal that the

notice of motion No.3369 of 2004 was withdrawn with liberty to take out fresh notice of motion. This is factually incorrect as can be seen from the order dated 29.9.2005.

4. Appeal is dismissed in limine.

(R.M. LODHA, J.)

(D.G. KARNIK, J.)